

Appln. No. 09/775,677

Amdt dated May 30, 2003

Reply to Office action of August 28, 2002

REMARKS/ARGUMENTS

This amendment is submitted in response to the Office action mailed August 28, 2002. A prior response, including a Request for Continued Examination (RCE), was filed by prior counsel on February 25, 2003. Subsequently, on April 8, 2003, the Examiner issued a Notice of Abandonment stating that it was improper to file an RCE after a non-final rejection because prosecution is not closed.

The undersigned submitted a Substitution of Attorney with Change of Address for Correspondence by Assignee on April 16, 2003. Accompanying this amendment is a Petition to Revive an Application for Patent Abandoned Unintentionally Under 37 C.F.R. §1.137(b).

On page 2 of the Office action, the Examiner acknowledges applicant's election of Group I (prosthesis for extravascular remodeling) without traverse and Species 9 (FIGS. 19 and 20) with traverse. With regard to the latter, the species requirement is made final.

Applicant notes that in the Examiner's original Restriction Requirement mailed May 6, 2002, the Examiner stated that none of the claims are generic. Applicant respectfully submits that amended claim 22 herein is generic to all species. Accordingly, applicant respectfully requests that the Examiner consider additional species that are written in dependent form or otherwise include all the limitations of generic claim 22, namely claims 1-17, 24-27, 29-40 and 74.

On pages 2-3 of the Office action, the Examiner addresses the applicant's request for interference and states that the concepts of "a lock and forming element adapted to be severed" are not disclosed in the specification. Applicant respectfully disagrees. Figure 13, which forms part of the specification, shows that the wires 26, 27 are secured (i.e., locked) to the adjacent stent sections 23, 24 and 24, 25 after the distances between the stent sections have been reduced,

Appln. No. 09/775,677

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and the ends of the wires 26, 27 extending from the stents to outside the vein system are severed.

The Examiner also notes on page 3 of the Office action that the "current application claims neither the forming element nor the lock." Applicant notes, however, that pending claim 29 recites "a lock for retaining the elongate body in the second configuration at least in part within the coronary sinus."

On page 3 of the Office action, the Examiner notes that if "Duran," "Carpentier" and "Cosgrove-Edwards" are trademarks, they should be entirely capitalized in the specification. The word "Duran" has been removed from the specification. The trademarks CARPENTIER and COSGROVE-EDWARDS have been capitalized wherever they appear and accompanied by generic terminology.

On pages 3-4 of the Office action, the specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. The Examiner indicates that claim 14 is in conflict with FIGS. 19 and 20. Applicant respectfully disagrees. FIGS. 19 and 20 disclose an elongate body having three stent sections, namely, a proximal stent section 30, a distal stent section 31 and a central stent section 42. The central stent section is located at a distance from each end of the elongate body. Accordingly, there is support in the specification for claim 14 which recites "at least one stent section at a distance from each end of the elongate body." Claim 14 also recites that the at least one stent section provides "a reduction of its length when expanded." This recitation finds support in the specification at page 23, lines 3-4, wherein it states that the "central stent section 42 is such as to reduce its length when expanded radially." Applicant respectfully requests that the objection to the specification be withdrawn.

Appln. No. 09/775,677

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On page 4 of the Office action, claims 14 and 30 are objected to because of certain informalities. Claims 14 and 30 have been amended to comply with the Examiner's request.

On pages 4-5 of the Office action, claims 23 and 28 are rejected under 35 U.S.C. §112 as containing subject matter not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the invention was filed, had possession of the claimed invention. Claims 23 and 28 have been cancelled without prejudice.

On pages 5-6 of the Office action, claims 16 and 37-39 are rejected under 35 U.S.C. §112 as being indefinite. The Examiner states that claim 16 is indefinite because it is not commensurate with the scope of claim 14, on which it depends. Applicant respectfully disagrees. As discussed earlier with regard to the objection to the specification, the elongate body of FIGS. 19 and 20 comprises three stent sections. Claim 14 recites "at least one stent section at a distance from each end of the elongate body." With reference to the embodiment of FIGS. 19 and 20, this would be the central stent section. Claim 15, which depends on claim 14 has been amended to expressly recite that "the at least one stent section is a central stent section." Claim 16 depends on claim 15 and therefore also includes this limitation. It is believed that the amendment to claim 15 explicitly recites that which was implicit in the original claim. Applicant respectfully requests that the rejection of claim 16 as being indefinite be withdrawn.

The Examiner states that claim 37 fails to recite sufficient antecedent basis in that it is indefinite. Applicant has amended claim 37 to overcome the rejection.

On page 6 of the Office action, the Examiner states that claims 38 and 39 are indefinite because it is unclear how they further limit the claimed invention of a medical device for remodeling an

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extravascular tissue structure adjacent to a vessel in a patient. The Examiner states that the deployment system is not a structural element of the medical device itself and that these claims should be cancelled. Applicant respectfully disagrees that a deployment system may not be considered a part of a medical device and respectfully requests reconsideration by the Examiner.

On pages 6-7 of the Office action, claims 21, 37 and 40 are rejected under 35 U.S.C. §102(e) as being anticipated by Jayaraman. Applicant also notes, however, that claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Accordingly, claim 22 has been amended to include all the limitations of claim 21, and claim 21 has been cancelled without prejudice. Claims 24-27 and 29-39 depend from claim 22. Because these claims depend from claim 22 and because they contain additional limitations further distinguishing these claims from the cited prior art when considered as a whole, these claims are also believed to be patentable.

Claim 40 has been amended to include the limitations of claim 22 and therefore is also believed to be patentable.

In view of the above, applicant respectfully requests reconsideration of the application and the allowance of claims 1-17, 22, 24-27, 29-40, and 74.

Respectfully submitted,

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